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DEPARTMENT OF COMMERCE

International Trade Administration

C-570-955

Certain Magnesia Carbon Bricks from the People's Republic of China: Notice of Rescission of Countervailing Duty Administrative Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) is rescinding its administrative review of the countervailing duty (CVD) order on certain magnesia carbon bricks (MCBs) from the People's Republic of China (PRC) for the period January 1, 2013, through December 31, 2013 (POR).

DATES: Effective date: (Insert date of publication in the *Federal Register*.)

FOR FURTHER INFORMATION CONTACT: Gene H. Calvert, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3586.

SUPPLEMENTARY INFORMATION:

Background

On September 2, 2014, the Department published in the *Federal Register* a notice of “Opportunity to Request Administrative Review” of the CVD order on MCBs from the PRC for the POR.¹ The deadline for the completion of the preliminary results is August 31, 2015.²

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 79 FR 51958 (September 2, 2014).

On September 30, 2014, Petitioner in this proceeding, Resco Products, Inc., and an interested party, Magnesita Refractories Company (Magnesita), submitted a timely request for an administrative review of five companies: 1) Fedmet Resources Corporation; 2) Fengchi Imp. and Exp. Co., Ltd. of Haicheng City (Fengchi Co.); 3) Fengchi Mining Co., Ltd. of Haicheng City (Fengchi Mining); 4) Fengchi Refractories Corp. (Fengchi Refractories); and 5) Puyang Refractories Co., Ltd. (collectively, Companies Subject to Review).³ On October 30, 2014, in accordance with 19 CFR 351.221(c)(1)(i), the Department published in the *Federal Register* a notice of initiation of an administrative review on the CVD order on MCBs from the PRC with respect to the Companies Subject to Review.⁴

The Department stated in the *Initiation Notice* that it intended to rely on U.S. Customs and Border Protection (CBP) data to select respondents.⁵ On November 5, 2014, we released U.S. Customs and Border Protection (CBP) entry data to interested parties for comments regarding respondent selection.⁶ On November 14, 2014, Fengchi Co. submitted comments on the Original CBP Data, and expressed concerns that the Original CBP Data may not accurately

² See Department Memoranda, “Certain Magnesia Carbon Bricks from the People’s Republic of China: Extension of Time Limit for Preliminary Results of the Countervailing Duty Administrative Review,” (May 22, 2015), and “Certain Magnesia Carbon Bricks from the People’s Republic of China: Second Extension of Time Limit for Preliminary Results of the Countervailing Duty Administrative Review,” (July 1, 2015).

³ See Letter to the Secretary from Petitioner and Magnesita, “Certain Magnesia Carbon Bricks from the People’s Republic of China: Countervailing Duty Administrative Review,” (September 30, 2014).

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 79 FR 64565, 64568 (October 30, 2014) (*Initiation Notice*); see also *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 79 FR 66694, 66695 (November 10, 2014), and *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 80 FR 37588, 37596 (July 1, 2015), correcting printing errors in the *Initiation Notice*.

⁵ See *Initiation Notice* at “Respondent Selection.”

⁶ See Department Memorandum, “2013 Countervailing Duty Administrative Review of Certain Magnesia Carbon Bricks from the People’s Republic of China: U.S. Customs and Border Protection Entry Data,” (November 5, 2014) (Original CBP Data).

reflect POR entries of subject merchandise.⁷ No other party commented on the Original CBP Data.

On December 19, 2014, we received timely no shipment certifications from Fengchi Co., Fengchi Mining, and Fengchi Refractories.⁸ These three companies also requested that we rescind this administrative review.⁹ Although Fengchi Co., Fengchi Mining, and Fengchi Refractories each certified that they had had no reviewable entries of subject merchandise during the POR, the Original CBP Data did show that Fengchi Co. had exports of subject merchandise that were entered during the POR.¹⁰ As a result, in our Respondent Selection Memorandum, we selected Fengchi Co. as our sole mandatory respondent.¹¹

Subsequently, the Department found that its data query that generated the Original CBP Data had been constructed for an incorrect period. The Department placed Corrected CBP Data onto the record on July 22, 2015, and gave interested parties an opportunity to comment on these data.¹² Our review of the Corrected CBP Data led us to conclude that there were no entries of MCBs from the PRC that were subject to countervailing duties with respect to the Companies Subject to Review during the POR.¹³ Accordingly, we sent requests to CBP to notify us if there was any indication from CBP ports that shipments of MCBs from the PRC regarding the

⁷ See Letter to the Secretary from Fengchi Co., “Magnesia Carbon Bricks from the People’s Republic of China, Case No. C-570-955: Comments on U.S. Customs and Border Protection Entry Data,” (November 14, 2014) (Fengchi Co. CBP Data Comments).

⁸ See Letter to the Secretary from Fengchi Co., Fengchi Mining, and Fengchi Refractories, “Magnesia Carbon Brick from the People’s Republic of China, Case No. C-570-955: No Shipments Letter,” (December 19, 2014).

⁹ *Id.*

¹⁰ See Original CBP Data.

¹¹ See Department Memorandum, “Administrative Review of the Countervailing Duty Order on Certain Magnesia Carbon Bricks from the People’s Republic of China: Respondent Selection,” (January 28, 2015) (Respondent Selection Memorandum).

¹² See Department Memorandum, “Administrative Review of the Countervailing Duty Order on Certain Magnesia Carbon Bricks from the People’s Republic of China: Respondent Selection – Corrected POR Entry Information,” (July 14, 2015) (Corrected CBP Data).

¹³ *Id.*

Companies Subject to Review entered the United States during the POR.¹⁴ We received no information from CBP to contradict the Corrected CBP Data.

On July 28, 2015, Resco, Magnesita, and Harbison Walker International submitted timely comments on the Corrected CBP Data, requesting that the Department ask CBP for entry summary information regarding the entries listed in the Corrected CBP Data.¹⁵ No other party commented on the Corrected CBP Data.

On August 12, 2015, the Department issued a memorandum stating that it intended to rescind this review based on the lack of suspended entries for Companies Subject to Review.¹⁶ We invited parties to comment on our intent to rescind this administrative review;¹⁷ we did not receive any comments from any interested party.

Rescission of Review

Section 351.213(d)(3) of the Department's regulations states that "{t}he Secretary may rescind an administrative review, in whole or only with respect to a particular exporter or producer, if the Secretary concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise, as the case may be."¹⁸ At the end of a review, the suspended entries are liquidated at the assessment rate calculated for the review period.¹⁹ Therefore, for an administrative review to be conducted there must be a suspended entry to be liquidated at the newly calculated assessment rate. The Department's practice of

¹⁴ See CBP Inquiries, Message Nos.: 5174303 (June 23, 2015); 5174304 (June 23, 2015); 5198315 (July 17, 2015); and 5219308 (August 7, 2015).

¹⁵ See Letter to the Secretary from the Magnesia Carbon Bricks Fair Trade Committee, "Certain Magnesia Carbon Bricks From the People's Republic of China: Petitioners' Comments on the CBP Data," (July 28, 2015).

¹⁶ See Department Memorandum, "Administrative Review of the Countervailing Duty Order on Certain Magnesia Carbon Bricks from the People's Republic of China; Intent to Rescind Administrative Review," (August 12, 2015).

¹⁷ *Id.*

¹⁸ See, e.g., *Certain Preserved Mushrooms From India: Notice of Rescission of Antidumping Duty Administrative Review*, 79 FR 52300 (September 3, 2014) (*Mushrooms from India*); see also *Certain Frozen Warmwater Shrimp From Brazil: Notice of Rescission of Antidumping Duty Administrative Review*, 77 FR 32498 (June 1, 2012).

¹⁹ See 19 CFR 351.212(b)(2). See also section 751(a)(1)(A) of the Act.

rescinding annual reviews when there are no entries of subject merchandise during the POR has been upheld by the Court of Appeals for the Federal Circuit.²⁰

In this instance, because the Corrected CBP Data show there are no suspended entries from the Companies Subject to Review upon which to assess duties for the POR, the Department is rescinding this review of the countervailing duty order on MCBs from the PRC pursuant to 19 CFR 351.231(d)(3). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after the date of publication of this notice.

Administrative Protective Order

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is published in accordance with section 751 of the Act and 19 CFR 351.213(d)(4).

Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

August 18, 2015

Date

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²⁰ See *Allegheny Ludlum Corp. v. United States*, 346 F.3d 1368 (Fed. Cir. 2003).